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FITCH EVEN TABIN AND FLANNERY 120 SOUTH LA SALLE STREET SUITE 1600 CHICAGO, IL 60603-3406			AVELLINO, JOSEPH E	
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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/488,337

Filing Date: January 20, 2000

Appellant(s): GETSIN ET AL.

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Steven M. Freeland  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed February 5, 2007 appealing from the Office action mailed June 1, 2006.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

No amendment after final has been filed.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

US 6161132 A	Roberts; Dale Tyson et al.	12-2000
US 5978835 A	Ludwig; Lester F. et al.	11-1999
6769130	Getsin et al.	07-2004

6,941,383

Getsin et al.

09-2005

US Patent Application no. 10/880,272 (Getsin et al.).

### **(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-24 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-13 of U.S. Patent No. 6,769,130 (hereinafter '130) in view of Ludwig et al. (USPN 5,978,835) (hereinafter Ludwig). '130 discloses providing an event stored in memory on the client apparatuses, transmitting a command from the host to the clients, and storing information on the host computer for allowing the simultaneous playback of the event from the memory on each of the client apparatuses (e.g. claim 1), and further discloses including a history of the simultaneous playback, however does not disclose that the history information can be downloaded for playback after the simultaneous playback. In analogous art, Ludwig discloses another method for storing synchronization information comprising the steps of:

storing content (i.e. recorded audio and video) and timing information (i.e. timestamps) transmitted during the simultaneous playback of the event at the host computer (col. 33, lines 45-50); and

allowing the content and timing information to be downloaded utilizing the network for playback of said event and said downloaded content and timing information after the simultaneous playback (MMCR call conference recordings are passed to the

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MMDM system which allows the documents to be searched and downloaded) (col. 3, lines 5-25; cols. 33-34).

It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Ludwig with Roberts in order to replay the collaboration with accurate correspondence in time to the recorded audio and video, thereby liberating the participants from the limitations of time and distance as supported by Ludwig (e.g. abstract; col. 33, lines 45-50).

\*\*\*\*\*

Claims 1-24 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-18 of U.S. Patent No. 6, 941,383 (hereinafter '383) in view of Ludwig. '383 discloses providing an event stored in memory on the client apparatuses (e.g. in a DVD player), transmitting a command from the host (e.g. server) to the clients, and storing information on the host computer for allowing the simultaneous playback of the event from the memory on each of the client apparatuses (e.g. claim 1), however does not disclose that the history information can be downloaded for playback after the simultaneous playback. In analogous art, Ludwig discloses another method for storing synchronization information comprising the steps of:

storing content (i.e. recorded audio and video) and timing information (i.e. timestamps) transmitted during the simultaneous playback of the event at the host computer (col. 33, lines 45-50); and

allowing the content and timing information to be downloaded utilizing the network for playback of said event and said downloaded content and timing information after the simultaneous playback (MMCR call conference recordings are passed to the MMDM system which allows the documents to be searched and downloaded) (col. 3, lines 5-25; cols. 33-34).

It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Ludwig with Roberts in order to replay the collaboration with accurate correspondence in time to the recorded audio and video, thereby liberating the participants from the limitations of time and distance as supported by Ludwig (e.g. abstract; col. 33, lines 45-50).

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Claims 1-24 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-48 of U.S. Application 10/880,272 in view of Ludwig. The rationale can be found in above for the rejection by '130 in view of Ludwig. This is the continuation of '130.

\*\*\*\*\*

Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts et al. (hereinafter Roberts) (USPN 6,161,132) in view of Ludwig.

1. Referring to claims 1, 7, and 13, Roberts discloses a method for storing synchronization information for subsequent playback of an event on a plurality of client apparatuses, comprising the steps of:

providing an event stored in memory on at least one of the client apparatuses, wherein the client apparatuses and a host computer (server) are adapted to be connected to a network (Internet) (col. 7, line 30 to col. 8, line 2);

storing information on the host computer for allowing the simultaneous playback of the event from the memory on each of the client apparatuses (col. 7, line 30 to col. 8, line 2);

Roberts does not disclose storing content and timing information transmitted during the simultaneous playback of the event at the host computer, and allowing the content and timing information to be downloaded utilizing the network for playback of said event and said downloaded content and timing information after the simultaneous playback. In analogous art, Ludwig discloses another method for storing synchronization information comprising the steps of:

storing content (i.e. recorded audio and video) and timing information (i.e. timestamps) transmitted during the simultaneous playback of the event at the host computer (col. 33, lines 45-50); and

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allowing the content and timing information to be downloaded utilizing the network for playback of said event and said downloaded content and timing information after the simultaneous playback (MMCR call conference recordings are passed to the MMDM system which allows the documents to be searched and downloaded) (col. 3, lines 5-25; cols. 33-34).

It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Ludwig with Roberts in order to replay the collaboration with accurate correspondence in time to the recorded audio and video, thereby liberating the participants from the limitations of time and distance as supported by Ludwig (e.g. abstract; col. 33, lines 45-50).

2. As to claims 2, 8, and 14, Roberts discloses the invention substantially as discussed in the claim 1 rejection, including the event includes a video and audio presentation (col. 2, lines 5-26).
  
3. As to claims 3, 9, and 15, Roberts discloses a method for storing synchronization information as stated above. Roberts does not disclose the information includes a history and data associated with the simultaneous playback. Ludwig discloses the information includes a history and data associated with the simultaneous playback (i.e. MMCR document stores all calls and captures all audio and video) (col. 33, lines 50-60). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Ludwig with Roberts in order to replay the

collaboration with accurate correspondence in time to the recorded audio and video, thereby liberating the participants from the limitations of time and distance as supported by Ludwig (e.g. abstract; col. 33, lines 45-50).

4. As to claims 4, 10, and 16, Roberts- Ludwig discloses the invention substantially as discussed in the claim 1 rejection, including the network is a wide area network (Roberts, col. 1, lines 57-61). The Office takes the Internet to be synonymous with a wide area network.
5. As to claims 5, 11, and 17, Roberts- Ludwig discloses the invention substantially as discussed in the claim 1 rejection, including the memory includes a digital video disc (DVD) (Roberts, col. 2, lines 5-18).
6. As to claims 6, 12, and 18, Roberts- Ludwig discloses the invention substantially as discussed in the claim 1 rejection, including the information includes chapter information associated with the DVD (Roberts, col. 4, lines 1-20). The term "track" can be considered equivalent to a chapter on a DVD since DVD movies are segmented into chapters such as audio CD's are segmented into audio tracks.
7. Claims 19-24 are rejected for similar reasons as stated above.

**(10) Response to Argument**

Appellant's Arguments (Brief, pages 12-21 have been fully considered but are not persuasive.

In section (7) Argument, Appellants provide five issues, however have grouped issues 1-3 together with respect to the Double Patenting rejections.

As to points (1.1, 2.1, and 3.1), Appellants argue that Ludwig does not disclose allowing the downloading of content and timing information for playback with the event locally stored at the client apparatus as required for claim 1 (Brief, page 12). Appellants must understand that it is the combination of the claims of the patents in view of the Ludwig reference. Appellants argue that Ludwig does not describe downloading content and timing information for playback with a locally stored event, however when the claims of the patents are interpreted in view of Ludwig, since the timing and content information of Ludwig includes all content from all parties to be recorded, one of ordinary skill in the art would clearly understand that this would include any references to the locally stored event. For these reasons, the rejections should be maintained.

As to points (1.2, 2.2, and 3.2), Appellants further argue that Ludwig does not disclose allowing the content and timing information to be downloaded utilizing the network for playback of a locally stored event and downloaded content and timing

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information after the simultaneous playback as required for claims 7, 13, and 19 (Brief, page 14). The Examiner disagrees. As pointed out above in (1.1) Roberts in view of Ludwig clearly meet each and every limitation of the claim. Furthermore Ludwig does disclose the use of downloading the information utilizing the network. The Board is directed to Figure 31C of Ludwig which clearly shows the client workstations 12-1 to 12-3 connected via data network lines 13a and 13b. This clearly demonstrates the MMCR records are downloaded via a network. For these reasons, the rejection should be maintained.

As to point (4.1), Appellants argue that Ludwig fails to suggest allowing the downloading of content and timing information for playback with the event locally stored at the client apparatus as is required for claim 1 (Brief, page 15). The Examiner disagrees. As stated numerous times, the rejection is not based solely on the Ludwig patent, rather Roberts in view of Ludwig. Appellant makes the argument that Ludwig does not describe or suggest downloading content and timing information for playback with a locally stored event, however the locally stored event information is supplied by the Roberts chat room which is synchronized with a CD inserted locally at the client. The combination of Roberts in view of Ludwig will permit the use of the MMCR (MultiMedia Conference Recording) of Ludwig to record the "chat room" conversation of Roberts. Appellant pointed out that Ludwig records all content from all parties, and therefore one of ordinary skill in the art would understand that the combination would record all the information sent from all parties, including any commands from the plug-in

sent to the chat server which describe the control action being taken (Roberts: col. 8, lines 5-7). The chat server would utilize the MMCR of Ludwig to record messages such as change in the position in the CD, change in the volume, or the ejection of the CD to replace it with another (Roberts: col. 8, lines 8-12). It should also be noted that Roberts explicitly discloses that the messages delivered to a chat room can be driven from a text file which would allow a pre-recorded experience to be played back for a group of chat users. (Roberts: col. 8, lines 25-30). Appellants make the assertion that all the audio and all chat content would be recorded if the MMCR system of Ludwig was used. The Examiner disagrees. As shown in Roberts, the messages can be stored in a text file which would allow the experience to be played back (Roberts: col. 8, lines 25-30). No complete audio would need be recorded, since the system would merely store the messages from the chat session to cause the CD to effect that audio, considerably reducing memory space. For these reasons, one of ordinary skill would clearly find it obvious to utilize the system of Ludwig to record content and timing information for the chat room which is capable of allowing a pre-recorded experience to be played back for a group of chat users, thereby liberating the participants from time and distance as supported by Ludwig (e.g. abstract; col. 33, lines 45-50).

Furthermore, it should be noted that the claim language does not even require that the information be downloaded. The claim states "allowing the content and timing information to be downloaded" (claim 1). A broad interpretation of this limitation merely requires that the system does not forbid the downloading of this information. As such,

the system of Roberts in view of Ludwig as described above clearly does not forbid the downloading of the content and timing information.

For these reasons, the rejection should be maintained.

As to point (4.2), Appellants argue that one skilled in the art would not combine the Ludwig patent with the Roberts patent (Brief, page 16-17). The Examiner disagrees. Appellants point out that Roberts is concerned with providing an interactive experience for the consumer, and providing a prerecorded chat session would not provide a meaningfully interactive experience for the consumer, however as shown in Roberts and pointed out in the refutation of (4.1), the use of pre-recorded experience to be played back for a group of chat users. Appellant is misconstruing the actual purposes of the "meaningful experience" of Roberts, rather Roberts is directed to allowing more than just music to be connected with a particular CD, such as creating a narrated, pre-recorded tour of the audio CD (Roberts: col. 8, lines 29-30). By this rationale, one of ordinary skill would clearly understand that these two references can be combined for good reason. For these reasons, the rejection should be maintained.

As to point (4.3), Appellants argue that Roberts teaches away from storing timing information and content, and playing back the content and timing information with the locally store event (Brief, page 17). The Examiner disagrees. As clearly shown in the refutation of points (4.1) and (4.2), Roberts clearly discloses a text file can be used to store messages to provide a pre-recorded experience can be played for a group of

users (Roberts: col. 8, lines 25-30). This not only flies directly in the face of Appellant's argument, it explicitly discloses that the chat session of Roberts can, in some way, be stored for a later time. By this rationale, Roberts does not teach away from storing content and timing information. For these reasons, the rejection should be maintained.

As to point (4.4), Appellants argue that Roberts nor Ludwig teach at least allowing the content and timing information to be downloaded utilizing the network for playback of the locally stored event as required for claims 7, 13, and 19 (Brief, page 18). The Examiner disagrees. This is essentially the same argument as was refuted in points (1.2, 2.2, and 3.2) and (4.1), and, for the sake of brevity, the Board is respectfully referred to the above mentioned points. For these reasons, the rejection should be maintained.

As to point (5), Appellants arguments were fully considered but were found not persuasive. Appellants arguments presented in the response to Non-Final Rejection dated May 16, 2006 essentially argued the same exact arguments as were refuted in the Final Rejection (i.e. Ludwig does not disclose the downloading of information to play at a later time) as well as in the After-Final Response, and in the Appeal Brief. As such, the Response to Arguments of the Final Rejection (page 8) encompasses the Appellant's traversal of the Double Patenting Rejection. For these reasons, the rejection should be maintained.

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Any arguments not directly refuted above are refuted for the same reasons as stated above.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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